

costalis Holmgren, 1910 was validly designated as type species by Emerson (1925, p. 379). Engel & Krishna (para. 3), however, returned to the designation by Banks (in Banks & Snyder, 1920, p. 69) of *Termes morio* Latreille, 1805 as type species of *Nasutitermes*. There are two problems with this designation: (1) *T. morio* was not among the species originally included in *Nasutitermes*; (2) *T. morio* is not a new name, but refers to specimens which Latreille misidentified as *T. morio* Fabricius, 1793. Emerson (1925, p. 379) considered that the name *Nasutitermes costalis* (Holmgren, 1910) should replace *Termes morio* Latreille and concluded that '*N. costalis* (Holmgren) will be the type species of *Nasutitermes*'. Engel & Krishna referred to Article 70.3 of the Code ('Misidentified type species') to conclude that the type species should be chosen from the nominal species previously cited as type species (in this case, *Termes morio* Fabricius, 1793) or the taxonomic species actually involved (*Eutermes costalis* Holmgren, 1910). However, Article 67.9 states that the provisions of Article 70.3 apply only if a validly fixed type species is later found to have been misidentified. Since *Termes morio* was not among the originally included nominal species (Article 67.2), it was not validly fixed by Banks as type species of *Nasutitermes* and Article 70.3 is not applicable. The discussion by Engel & Krishna of the consequences of the application of Article 70.3 to this case is irrelevant. *Termes morio* Fabricius is not available for type species fixation and *E. costalis* Holmgren is not the only alternative. The relevant question is whether Emerson's (1925) statement constitutes a valid designation of *E. costalis* Holmgren as type species. It is clear that Emerson accepted the designation of *T. morio*, but only considered that the name of the species had to be changed. For this reason, Engel & Krishna rejected Emerson's statement as a new type species designation. However, according to Constantino (2002, p. 534), the fact that Emerson's reasoning was wrong does not invalidate the type species designation. Article 69.1.1 states that '. . . an author is deemed to have designated one of the originally included nominal species as type species, if he or she states (for whatever reason, right or wrong) that it is the type or type species'. It is clear that we should follow Constantino in accepting that Emerson (1925) validly designated *E. costalis* as type species of *Nasutitermes*, even though his argument was wrong. No ruling of the Commission is needed in this case, since *E. costalis* is in current use as type species of *Nasutitermes*. The Commission could, however, use its specific powers (Article 78.2.3) to 'interpret the provisions of the Code' and confirm that Emerson's (1925) statement, reproduced above, does constitute a valid type species designation.

Comment on the proposed conservation of the specific name of *Melitaea nycteis* Doubleday, 1847 (currently *Chlosyne nycteis*; Insecta, Lepidoptera)
(Case 3280; see BZN 62: 79–83)

(1) David M. Wright

124 Heartwood Drive, Lansdale, PA 19446, U.S.A.

I support the application by Calhoun, Miller & Miller requesting that the name *Melitaea nycteis* Doubleday, 1847 is conserved, and the problematic name *Melitaea*

ismeria Boisduval & Le Conte, 1835 is suppressed. Being familiar with this contentious situation in North America, and having served as reviewer for papers from both sides of the issue, I agree with the conclusions of the authors.

From historical research we know that the drawing by John Abbot, used as the template for the illustration of *M. ismeria* by Boisduval & Le Conte (1833, pl. 46), was copied faithfully by Abbot five times. The evidence (six drawings of the same insect by Abbot) confirms that Abbot painted the insect we know as *Dryas gorgone* Hübner, 1810.

Therefore, the designation by Gatrell (1998) of a neotype that makes *M. ismeria* and *M. nycteis* synonyms was incorrect.

In my opinion, the available options are: (1) to suppress the name *M. ismeria* Boisduval & Le Conte (as proposed in para. 14(1)), or (2) to invalidate the recently designated neotype of *M. ismeria*. I prefer option 1, which effectively executes both.

(2) Mark Salvato

1765 17th Avenue SW, Vero Beach, Florida, U.S.A.

I fully agree with authors John V. Calhoun, Lee D. Miller & Jacqueline Y. Miller regarding the conservation of the scientific name *Mylitaea nycteis* Doubleday, 1947 as proposed in Case 3280.

In the recent literature Calhoun (2003, 2004) has presented overwhelming evidence that indicates *M. nycteis* is the appropriate name for the butterfly in question and that *M. ismeria* should be suppressed. We now know that the original Abbot drawing used by Boisduval & Le Conte (1835) to describe *M. ismeria* was actually a drawing of *M. gorgone*. Therefore, the insect *M. ismeria* was erroneously named in 1835, as no such insect existed then and all specimens observed to date are either of *nycteis* or *gorgone*. In 1847, Doubleday correctly named *M. nycteis* from examination of a drawing that indeed was of a new insect. The name *ismeria* is not synonymous with *nycteis* as Gatrell (1998) suggests; the name *ismeria* applies to an insect that never actually existed. The scientific name *Mylitaea ismeria* should be suppressed as Calhoun, Miller & Miller suggest and this butterfly should continue to be referred to correctly as *Mylitaea nycteis*.

(3) Dale F. Schweitzer

Terrestrial Invertebrate Zoologist, NatureServe, 1761 Main Street, Port Norris, NJ 08349, U.S.A.

I am writing in support of the petition before you by Calhoun, Miller & Miller regarding Case 3280. I strongly urge use of the Commission's plenary power to

suppress the name *Melitaea ismeria* Boisduval & Le Conte, 1835 and to place it on the Official Index of Rejected and Invalid Names in Zoology to preserve 158 years of nomenclatural stability. As an experienced professional lepidopterist, past curator, author of five moth species, and contributor to a major conservation database, I cannot think of a case where suppression is more warranted among North American Lepidoptera.

As is well documented in the petition before you regarding Case 3280, the names *Melitaea ismeria* Boisduval & Le Conte and *M. nycteis* Doubleday have both been around for over 150 years although, being butterflies, generic combinations have changed often. The petition gives a very complete history of these names. Gatrell's recent neotype designation would upset over 150 years of stability and is counter even to the one 20th century worker, J.H. McDunnough, to have examined an actual Boisduval specimen (perhaps the holotype or a syntype) who synonymized *ismeria* to *gorgone*, see the petition point 10. Prior to Gatrell's radical change, no author had suggested that *M. nycteis* and *M. ismeria* refer to the same species. *M. ismeria* has almost universally been treated as conspecific with what is now *Chlosyne gorgone* (the senior name), which is also the conclusion of the exhaustive study by John Calhoun, the lead author of the petition, or treated as a nomen incognitum. In contrast the name *nycteis* has been applied universally to the same widespread and familiar butterfly since it was first proposed 158 years ago. The current (but pre-Gatrell) combination *Chlosyne nycteis* (Doubleday) also is in use in virtually every taxonomic and conservation database and web site that deals with North American butterflies, not to mention most major Lepidoptera collections in the world and many publications popular and scientific.

Gatrell's case is not conclusive (see petition points 8–11). Calhoun's argument in a respected peer reviewed journal that *ismeria* is conspecific with *gorgone* appears to be the stronger one based on the evidence. Note in particular items 8 and 10 in the petition. Calhoun apparently did, and Gatrell apparently did not, locate the original Abbott plate upon which the name was based. Some of the ancient figures involved might be best identified as 'unrecognizable' rather than as any taxon. I have seen at least one personally and did not know which of these familiar species, if any, it represents. Calhoun's review and findings, upon which this petition is largely based, agree with, or at least do not contradict, virtually every author before him, except for Gatrell. Gatrell's article notably did not appear in a peer-reviewed periodical. Unfortunately his ill-advised neotype designation appears to me to be valid and, if any workers followed it, it would needlessly upset 158 years of nomenclatural stability for a widespread North American butterfly and is counter to the conclusions of all other authors who have commented on the matter. This would needlessly create a lot of confusion, at least in the short term.

I would support this petition in the name of nomenclatural stability even if I agreed with Gatrell's conclusions regarding the true identity of *Melitaea ismeria*, and in my opinion he should have petitioned to have the name suppressed. Therefore I hope the Commission will resolve this matter by suppressing this poorly founded and little used name, rather than allow it to replace a long-standing familiar name based on very questionable conclusions and an ill-advised neotype designation.